

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION - DETROIT**

**In re: Stanley M. Ferenc, and
Dynah N. Duncan-White**

**Case No. 19-40109
Chapter 13
Hon. Phillip J. Shefferly**

Debtor.

**EX PARTE MOTION TO RECONSIDER THE ORDER DISMISSING DEBTOR'S
CHAPTER 13 CASE & TO REINSTATE CASE**

NOW COME Debtor(s), Stanley Ferenc and Dynah Duncan-White, by and through their Counsel, Babut Law Offices PLLC, and in support of their EX PARTE MOTION

REINSTATING DEBTOR'S CHAPTER 13 CASE, states as follows:

1. Debtor filed a Chapter 13 proceeding with this Court on or about January 4th, 2019.
2. Debtor's Chapter 13 Plan has yet to be confirmed.
3. On March 15th, 2019 this honorable Court entered an order adjourning the 341 first meeting of creditors (the "Order") and required Debtor(s) to provide certain documents to the Trustee and make certain amendments to their schedules. See **docket no. 43**.
4. There were two deadlines set by the Order, one for March 26th, 2019 and one for April 15th, 2019.
5. Around April 6th, 2019, the "of-counsel" attorney handling this case abruptly resigned from Babut Law Offices, PLLC.
6. When the above-mentioned attorney resigned, the March 26th deadline had already passed and undersigned counsel had hired a new attorney.
7. When the newly hired attorney discovered the existence of the April 15, 2019 deadline, he promptly contacted clients and received all documents, except for information on Debtor's Social Security claim (however, the Social Security attorney has been contacted by Debtor(s) and Babut Law Offices PLLC to provide information).
8. However, by the time undersigned counsel received return communication from the Debtor(s) and the above-mentioned documents, the Court had dismissed this case upon affidavit of the trustee. See **docket no. 50**.
9. On the date of filing this motion, Debtor(s) have met or will meet (in the case of the

Social Security claim information) every provision in the Order at **docket no. 43**:

- a. Debtor(s) are 199% paid in, and have prepared an ACH agreement and authorization form to remit April's payment-provided the case is reinstated.
- b. An amended Schedule I and J has been filed and reflects Debtor(s)' current financial situation as stated in Debtor(s)' general ledger.
- c. Debtor(s) have provided their 2018 income tax return documents to the Trustee.
- d. Debtor(s) have provided proof of property insurance to 2000 real estate.
- e. Debtor(s) have filed an amended, original Chapter 13 repayment plan.

10. The Debtor(s) have substantially complied with all requirements of their Chapter 13 plan, and committed to making their Chapter 13 work.

11. In the interests of judicial economy, all interested parties and this Court would be better served by allowing the reinstatement of Debtor's case, rather than forcing the Debtor to re-file her bankruptcy case yet again or seek alternative methods to deal with her creditors.

12. Further, Fed. R. Civ. P. 60(b)(1), made applicable to this proceeding by Fed. R. Bankr. P. 9024, states that "[o]n motion and just terms, the court may relieve a party or its legal representative from a final judgment, order, or proceeding for the following reasons: mistake, inadvertence, surprise, or excusable neglect[.]"

13. In this case, mistake, and inadvertence applies, a transition in undersigned counsel caused a deadline to be missed.

14. Undersigned counsel has stabilized from hiring new, full-time counsel, and believes it inequitable for Debtor(s) to suffer for the inadvertence of the undersigned.

WHEREFORE, Debtor(s) pray this Honorable Court reinstate their Chapter 13

Bankruptcy Proceeding.

Respectfully submitted,

Dated: April 23, 2019

/s/ William C. Babut
William C. Babut (P41099)
Babut Law Offices, P.L.L.C.
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Ypsilanti, MI 48198
734-485-7000
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_____ /

ORDER REINSTATING DEBTOR'S CHAPTER 13 CASE

Debtor(s)' Counsel having filed an EX PARTE MOTION FOR RECONSIDERATION, ENTRY OF ORDER SETTING ASIDE ORDER DISMISSING DEBTOR'S CHAPTER 13 CASE, AND REINSTATING DEBTOR'S CHAPTER 13 CASE and all interested parties and the Court being fully advised in the premises;

IT IS FURTHER ORDERED that Debtor's Chapter 13 Bankruptcy case is reinstated.

IT IS FURTHER ORDERED that the Automatic Stay is hereby reinstated.

IT IS FURTHER ORDERED that the debtor's 341 First Meeting of Creditors will be adjourned to _____ room and Confirmation shall be adjourned to _____ at Courtroom 1975.

IT IS FURTHER ORDERED that Debtor shall serve a copy of this Order on all creditors and parties in interest and shall file a Certificate of Service within 7 days of entry of this Order.

Exhibit 1

UNITED STATES BANKRUPTCY COURT
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_____ /

CERTIFICATE OF SERVICE

William C. Babut, under penalty of contempt of court, hereby certifies that on **April 23, 2019**, he served **EX PARTE MOTION TO RECONSIDER THE ORDER DISMISSING DEBTOR'S CHAPTER 13 CASE & TO REINSTATE CASE**, in said case upon the following party via the E.C.F. system, which will provide electronic notice to the following:

TRUSTEE: David Wm. Ruskin

Dated: April 23, 2019

/s/ William C. Babut
William C. Babut (P41099)
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700 Towner Street
Ypsilanti, MI 48198
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EXHIBIT 4